

**Amendment and Response Under 37 C.F.R. 1.116**

Applicant: Daniel D. Baker

Serial No.: 10/627,431

Filed: July 25, 2003

Docket No.: 58912US002

Title: APPARATUS AND METHOD FOR HANDLING LINERLESS LABEL TAPE

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**REMARKS**

This is responsive to the Final Office Action mailed November 16, 2004. In that Office Action, the Examiner rejected claim 8 under 35 U.S.C. §102(b) as being anticipated by Baker et al., U.S. Publication No. 2002/0057300 ("Baker"). Claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over Baker in view of Saiki et al., U.S. Patent No. 4,577,199 ("Saiki"). Claims 10, 12 and 14 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baker in view of Traise, U.S. Patent No. 5,853,117 ("Traise"). Claims 11 and 15-20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Baker in view of Traise as applied to claim 10 above, and further in view of Wood et al., U.S. Publication No. 2002/0090244 ("Wood"). Claim 13 was rejected under 35 U.S.C. §103(a) as being unpatentable over Baker in view of Traise as applied to claims 10, 12, and 14 above, and further in view of Baranyi, U.S. Patent No. 4,685,815 ("Baranyi"). Claim 21 was rejected under 35 U.S.C. §103(a) as being unpatentable over Baker in view of Traise as applied to claims 10, 12, and 14 above, and further in view of Saiki. The Examiner's indication that claim 18 (although objected to) would be allowable if rewritten in independent form and that claims 29-37 are allowed, is noted with appreciation. With this Response, claim 38 has been added. Claims 8-21 and 29-38 remain pending in the application and are presented for reconsideration and allowance for the following reasons.

**35 U.S.C. §102 Rejections**

The Examiner has interpreted the roller 80 of Baker as being the "driven platen roller" of claim 8 and the roller 30 of Baker as being the "driven roller" of claim 8. With these specific designations in mind, it is respectfully submitted that Baker does not anticipate claim 8 for at least the following reasons.

Baker specifically describes the roller 30 as being an "applying roller" (Baker, page 4, paragraph 50). This terminology naturally follows from the fact that the applying roller 30 assists in applying a length of tape to an article, such as the box 6 in FIG. 1. In particular, the applying roller 30 contacts a printed side of the tape segment otherwise being secured to the box

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6, imparting a pressure thereon to ensure contact between the opposite, adhesive side of the tape and the box 6. With this in mind, the applying roller 30 is not a “driven roller” as otherwise asserted by the Examiner. Notably, the pending application specifies that “when referring to a roller as being “driven”, as used herein, including the claims, this means that it is rotating as a result of some mechanical drive motor ultimately controlling its rotation, ...” (page 14, line 32 – page 15, line 2). Conversely, an “undriven roller” is a roller that is not connected to a drive motor, either directly or indirectly, and freely rotates on its own (page 15, lines 4-6). With this understanding, the applying roller 30 of Baker is not a driven roller. The applying roller 30 is not driven by a motor when applying tape to the box 6. Instead, Baker specifically describes that it is the motion of the box 6 that causes the applying roller 30 to apply a tape segment (Baker, page 4, paragraph 40). For example, with respect to the embodiment of FIGS. 2-4, Baker describes that the tape is initially between the applying roller 30 and the box 6. As the box 6 is fed through the case sealer 9, this pulls the tape from the first accumulator 41 (Baker, page 5, paragraph 58). Thus, the applying roller 30 is not driven to pull tape from the first accumulator 41; instead, movement of the box 6 pulls the tape. Nothing in Baker teaches or suggests that the applying roller 30 is anything other than a freely moving roller. Pointedly, because the applying roller 30 contacts the printed side of the tape, it inherently should not be driven as the printed surface of the tape could be damaged, nor could the applying roller 3 actually “drive” tape due to the low coefficient of friction between the printed side of the tape and the applying roller. Thus, the applying roller 30 of Baker cannot be a “driven roller” of claim 8 and is not capable of “pulling the web of linerless tape from the platen roller” as otherwise required by claim 8. For at least these reasons, then, it is respectfully submitted that claim 8 is allowable over Baker.

**35 U.S.C. §103 Rejections**

Claims 9-21 depend from claim 8. As previously described, claim 8 recites allowable subject matter. Thus, claims 9-21 are similarly allowable. Additionally allowable subject matter is found, for example, in claim 9 that recites a belt connecting the driven roller and the driven platen roller. Using the elements identified in Baker by the Examiner, and in particular that the “platen roller” of Baker is element 80 and the “driven roller” of Baker is element 30, a requisite

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suggestion to combine Baker in view of Saiki does not exist. The apparatus of Baker would not function as intended were a belt provided that connected the applying roller 30 and the platen roller 80. As shown by the transition of the Baker system from the position of FIG. 2 to the position of FIG. 3, the applying roller 30 must be capable of moving downwardly relative to the system 40 (and thus the platen roller 80) to assist in applying tape to various surfaces of the box 6. Were a belt provided that connected the platen roller 80/applying roller 30, this necessary movement could not occur. Further, Baker recognizes that the speed with which articles are fed through the case sealer can vary from the speed at which the printer prints, and thus the speed at which the platen roller 80 rotates (Baker, page 4, paragraph 49). If a belt were provided connecting the platen roller 80 and the applying roller 30, the relative rotational speeds of the platen roller 80 and the applying roller 30 would be fixed. Thus, the applying roller 30 would not accommodate a variable case sealer speed relative to the printer speed. For at least these reasons, then, it is respectfully submitted that claim 9 recites additionally allowable subject matter. In addition, because, as described above, the applying roller 30 of Baker is not and cannot be a driven roller, the limitations of at least claims 10-12 and 21 recite additionally allowable subject matter as a requisite suggestion to modify Baker in view of the cited references does not exist. Further, with respect to claims 15 and 16, because the applying roller 30 of Baker contacts the printed side of the tape 14, a requisite suggestion to modify Baker in view of Wood, as advanced by the Examiner, does not exist. Pointedly, the applying roller 30 of Baker cannot have a knurled surface as set forth in claim 16 as to do so would damage the printed side of the tape (especially if the knurled applying roller 30 were a "driven roller" as advanced by the Examiner).

**Newly Presented Claim**

Newly presented claim 38 is similar to claim 8 and further recites that the driven roller is positioned relative to the platen roller to define a wrap angle of the web of linerless tape along the driven roller between 10°-180°. As indicated in paragraph 9 of the Final Office Action, the Examiner views that the prior art does not teach or render obvious this limitation. As such, it is respectfully submitted that claim 38 is allowable.

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**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 8-21 and 29-38 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 8-21 and 29-38 is respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Respectfully submitted,

Daniel D. Baker et al.,

By their attorneys,

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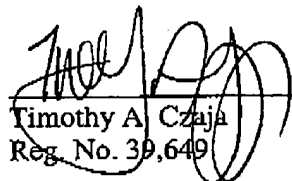
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The undersigned hereby certifies that this paper or papers, as described herein, are being transmitted via telefacsimile to Fax No. (703) 872-9306, ATTN: Examiner Culler, on this 18 day of January, 2005.

By

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